

Special Exceptions and Jury Demand on March 7, 2016. *See* Defendant's Original Answer attached hereto as Exhibit "B".

2. On March 14, 2016, Mid-Continent Casualty Insurance Company ("Mid-Continent") was served. *See* Exhibit "C". Mid-Continent filed its Original Answer attached hereto as Exhibit "D". Mid-Continent consents to the this removal to federal court.

3. Defendants, Essex Insurance Company ("Essex") and Evanston Insurance Company ("Evanston"), were served on March 10, 2016. *See* Exhibit "E". and on March 23, 2016, filed their Original Answer attached hereto as Exhibit "F". Essex and Evanston consent to the this removal to federal court.

4. Defendant's Notice of Removal was filed on March 24, 2016, which is within the thirty-day statutory time period for removal under 28 U.S.C. § 1446(b).

II. DIVERSITY JURISDICTION

5. This Court has original jurisdiction under the provisions of 28 U.S.C. § 1332, because there is complete diversity of citizenship between Plaintiff and Defendants.

6. Plaintiff, Continental Homes of Texas, L.P., is a Texas limited liability company with its principal place of business in Texas.

7. Defendant, Mid-Continent is an Ohio corporation with its principal place of business in Oklahoma.

8. Defendant, Essex Insurance Company ("Essex") is a Delaware corporation with its principal place of business in Virginia.

9. Defendant, Evanston Insurance Company ("Evanston") is an Illinois corporation with its principal place of business in Illinois.

10. Defendant, Scottsdale Insurance Company ("Scottsdale") is an Ohio corporation with its principal place of business in Arizona.

11. Therefore, there is complete diversity because unlike Plaintiff, none of the Defendants are citizens of Texas. See 28 U.S.C. § 1332(c) (discussing that a corporation is a citizen of the state in which it was incorporated and the state in which it has its principal place of business)

a. Amount in Controversy

12. The "matter in controversy" under 28 U.S.C. § 1332(a) is determined by reference to the Plaintiff's pleadings. The damages the Plaintiff claims in its petition, if apparently claimed in good faith, are controlling. *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 288 (1938). Attorney's fees are an element of the amount in controversy where their recovery is authorized by a statute under which the plaintiff sues. *H&D Tire & Auto. Hardware, Inc. v. Pitney Bowes, Inc.*, 227 F.3d 326, 330 (5th Cir. 2000), cert. denied, 534 U.S. 894 (2001).

13. Here, Plaintiff, Continental Homes of Texas, L.P.'s petition does not allege the amount in controversy. However, the claimant in the underlying suit, Cat Hollow, upon which this suit for defense and indemnity is based, has answered discovery alleging \$4,556,752.66 in damages. See Plaintiff's, Cat Hollow's, Fourth Supplemental Responses to Requests for Disclosure attached as Exhibit "G". Thus, the amount in controversy for this suit is at least that amount plus attorneys' fees and statutory interest, and well in excess of the \$75,000.00.

INFORMATION FOR THE CLERK

14. Plaintiff: Continental Homes of Texas, L.P.

15. Defendants: Scottsdale Insurance Company, Mid-Continent Casualty Insurance Company, Essex Insurance Company, and Evanston Insurance Company.

16. The case is pending in the state court of Travis County:

353rd Judicial District Court
Honorable Tim Sulak
1000 Guadalupe St., 5th Floor
Austin, Texas 78701
Phone: (512) 854-9332

17. A civil cover sheet is attached.
18. A copy of Plaintiff's Original Petition is attached as Exhibit A.
19. A copy of the answer for Defendant, Scottsdale, is attached as Exhibit B.
20. A copy of service on Defendant, Mid Continent, is attached as Exhibit C.
21. A copy of the answer for Defendant, Mid-Continent, is attached as Exhibit D.
22. A copy of service on Defendants, Essex and Evanston, is attached as Exhibit E.
23. A copy of the answer for Defendant, Essex and Evanston, is attached as Exhibit F.
24. A copy of Claimant's, Cat Hollow's, Fourth Supplemental Responses to Requests for Disclosure is attached as Exhibit G.
25. A copy of the state court's docket sheet is attached as Exhibit H.
26. A copy of the Notice of Removal filed in State Court is attached as Exhibit I.
27. An index of matters is attached.
28. There are no other pleadings in state court.
29. Counsel for Plaintiff:
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32. Counsel for Defendants, Essex Insurance Company and Evanston Insurance Company:
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Jury Demand

33. Defendant, Scottsdale, demanded a jury trial in state court.
34. Scottsdale hereby requests a trial by jury in federal court as well.

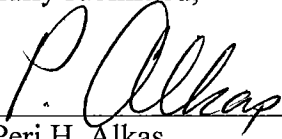
Miscellaneous

35. Because Plaintiff is a business formed under the laws of Texas with its principal place of business in Texas, Defendants are all businesses incorporated in other states with their principal place of business in other states, and the amount in controversy exceeds \$75,000, the Court has subject matter jurisdiction based on diversity of citizenship and residency. 28 U.S.C. § 1132. As such, this removal action is proper.

WHEREFORE, Defendant, Scottsdale, respectfully requests that the above entitled action be removed from the 353rd Judicial District Court of Travis County, Texas, to the United States District Court for the Western District of Texas, Austin Division.

Respectfully submitted,

By: _____



Peri H. Alkas

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing instrument has been served on all counsel of record by certified mail, return receipt requested and/or electronic notification on March 24, 2016.

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